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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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October 3, 2001

Via Electronic Filing System and Hand Delivery

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: 2001 Annual Access Tariff Filings; CC Docket No. 01-206; Rebuttal,
Supplement and Motion of Moultrie Independent Telephone Company

Dear Ms. Salas:

Enclosed for filing in the captioned annual access tariff proceeding is the Rebuttal of Moultrie Independent Telephone Company. Also enclosed are a Supplement to the Direct Case and a motion for confidential treatment of the financial attachments thereto. Four copies of the public documents are transmitted herewith. MITCO has served the confidential revised attachments on the interested parties who obtained the previous confidential attachments pursuant to the Protective Order that was issued in this proceeding.

Please contact me if you have any questions regarding these documents.

Sincerely,



Loretta J. Garcia

cc: Judith A. Nitsche, CCB (w/o att.)
Jennifer McKee, CCB (1 w/ att. + 3 copies)
Qualex International (w/o att.)

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

2001 Annual Access Tariff Filings

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) CC Docket No. 01-206
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**REBUTTAL OF
MOULTRIE INDEPENDENT TELEPHONE COMPANY**

1. Moultrie Independent Telephone Company ("MITCO") hereby submits its Rebuttal in response to the Oppositions filed pursuant to the Common Carrier Bureau's Designation Order regarding the 2001 annual access tariff filing.¹ AT&T Corp. filed an Opposition to MITCO's local switching (LS2) tariff rate. Opposition of AT&T Corp. to the Direct Cases of Alltel Tel. Systems, Inc. and Moultrie Indep. Tel. Co., filed Sept. 26, 2001 ("AT&T Opposition").

I MITCO Calculated its Costs as Required by the FCC's Rules.

2. AT&T claims that MITCO should calculate its revenue requirement for local switching by excluding local switching support for which MITCO is eligible. AT&T Opposition at 3. AT&T's interpretation is contrary to the plain language of the FCC's rule. Section 69.106(b) of the rules requires a carrier to compute its local switching rate "by dividing the projected annual revenue requirement for the Local Switching Element, excluding any local

¹ 2001 Annual Access Tariff Filings, Order Designating Issues for Investigation, DA 01-2033, released Aug. 29, 2001.

switching support *received by the carrier* pursuant to sec. 54.301 of this Chapter, by the projected annual access minutes of use for all interstate or foreign services that use the local exchange switching facilities.”² MITCO’s cost consultant developed MITCO’s 2001 cost study at issue in this investigation consistent with the clearly stated requirements of this FCC rule.

3. As explained in MITCO’s Direct Case, MITCO has received no local switching support for 2001 and none is expected, depending only on the outcome of its pending petition for declaratory ruling.³ The cost study for access charge development purposes is intended to separate the costs of service between the state and interstate jurisdictions. The increase in the switching rate filed pursuant to section 69.106 reflects the switching rate of MITCO based on its having received no high-cost support, either current or forecasted. Thus, the revenue requirement properly accounted for the fact that no local switching support has been received nor is expected to be received by MITCO for the year 2001.

II AT&T Misinterprets the Relevance of NECA’s Treatment of MITCO’s Cost Study.

4. AT&T also mischaracterizes the outstanding issues between MITCO and the National Exchange Carrier Association (“NECA”). AT&T Opposition at 3. The 1997 cost study MITCO filed with NECA for high-cost support and carrier common line funding accurately reflected the sale and lease transactions between MITCO’s regulated telephone company and its unregulated affiliate. The cost study and MITCO’s records of the sale and lease of the assets were in accordance with the FCC’s Part 32 (Uniform System of Accounts) rules. NECA rejected

² 47 C.F.R. 69.106(b) (*emphasis added*).

³ Moultrie Indep. Tel. Co., Petition for Declaratory Ruling, CC Docket No. 96-45, filed March 29, 1999.

the cost studies submitted by MITCO in 1997, 1998, 1999 and 2000 based on NECA's interpretation of the FCC's Part 36 rules.⁴

5. As noted in the Bureau's Designation Order, MITCO filed a petition for declaratory ruling on the subject of NECA's downward adjustment to MITCO's universal service support based on MITCO's sale and lease of the referenced facilities. That petition raised the critical issue of whether the Commission has the legal authority to require incumbent local exchange carriers to own, rather than lease, the facilities they use to provide telecommunications service. MITCO makes clear in that proceeding that its sale and lease transactions were and are a sound exercise of management discretion with clear public interest and ratemaking benefits inuring to its subscribers. As MITCO made clear in its direct case, the FCC has not yet ruled on NECA's interim actions. As such, the FCC has validated neither NECA's continuing use of the 1996 cost study nor NECA's interpretation of the rules.

6. Referring to a letter sent by NECA to the Common Carrier Bureau in which NECA asked for clarification of the Part 36 rules regarding affiliate leases, AT&T seems erroneously to assume that the Bureau's response to the NECA letter resolved all legal issues between NECA and MITCO. AT&T Opposition at 3, n. 2. Such an assumption is incorrect. NECA's letter only presented the Bureau with one of the rules called into question by MITCO's sale and lease of facilities. Thus, any response from the Bureau was missing critical analysis on the other rule in dispute: 47 CFR 32.27. Both issues are squarely presented in MITCO's pending petition.

⁴ Memorandum from Roberta Alvir, NECA, to Larry Van Ruler, Independent Telecommunications Consultants, Inc.; Steve Bowers, Moultrie; and John Boehm, NECA, dated March 12, 1999.

7. Nor, importantly, did NECA or the Bureau give MITCO an opportunity to comment on the letter filed by NECA in 1999. Despite the fact that NECA knew of MITCO's petition (out of procedural fairness, MITCO served NECA), NECA did not notify or serve MITCO when it filed its letter with the Bureau staff. The Bureau's letter response thus was obtained in violation of the Commission's long-standing ex parte rules.⁵ Consequently, the Bureau's letter ruling was flawed and cannot now be relied on by the Bureau in this tariff proceeding.

III Conclusion

8. In view of the foregoing, the Commission must reject AT&T's Opposition and determine that MITCO correctly calculated its local switching rate for purposes of the 2001 annual access tariff filing. MITCO's filed local switching rate is warranted based on MITCO's strict adherence to the FCC's rule in section 69.106(b) used to calculate that local switching rate.

Respectfully Submitted,

MOULTRIE INDEPENDENT TELEPHONE COMPANY



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Its Counsel

October 3, 2001

⁵ 47 C.F.R. § 1.200 - 1.1216.

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Washington, D.C. 20554

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2001 Annual Access Tariff Filings

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) CC Docket No. 01-206
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**MOTION FOR
CONFIDENTIAL TREATMENT**

1. Moultrie Independent Telephone Company (“MITCO”), through its undersigned counsel, hereby requests confidential treatment of the attachments submitted with the Supplement to Direct Case of Moultrie Independent Telephone Company, which was filed today in the captioned proceeding.¹ This request is made pursuant to Sections 0.457 and 0.459 of the Commission’s rules, 47 CFR 0.457 and 0.459. In the Bureau’s Designation Order regarding Moultrie’s 2001 annual access tariff filing, the Bureau requested further explanations regarding MITCO’s calculation of costs for the 2001 local switching rate element. These attachments are responsive to that request.

2. The information that Moultrie marks as “proprietary” and “confidential” includes cost study forecasts for 2001. These forecasts include the study relied upon by Moultrie in setting the rates in its 2001 annual access tariff filing, and a recomputed study forecasting rates in compliance with the Bureau’s request in the Designation Order. The

¹ 2001 Annual Access Tariff Filings, Order Designating Issues for Investigation, DA 01-2033, released Aug. 29, 2001.

information also includes local switching support data and Moultrie's interstate access cost studies for the years 1994, 1995, and 1996.

3. Pursuant to Section 0.457 of the rules, the data contained in the attachments is proprietary financial data of the company and is not routinely available for public inspection. These materials contain commercial and financial information that are used to compute MITCO's local switching rate and other rates and, as such, the information typically is guarded against disclosure to competitors and the public at large.

4. These documents and the data therein should continue to be withheld from public inspection at any time now or in the future.

Respectfully Submitted,

MOULTRIE INDEPENDENT TELEPHONE COMPANY

A handwritten signature in black ink, appearing to read "Loretta J. Garcia". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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Its Counsel

Dated: October 3, 2001

Before the
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Washington, D.C. 20554

In the Matter of

2001 Annual Access Tariff Filings

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CC Docket No. 01-206

**SUPPLEMENT TO DIRECT CASE OF
MOULTRIE INDEPENDENT TELEPHONE COMPANY**

1. Moultrie Independent Telephone Company ("MITCO") hereby submits supplemental attachments to its Direct Case filed pursuant to the Common Carrier Bureau's Designation Order regarding the 2001 annual access tariff filing.¹ It has come to counsel's attention that Attachment 1 and Attachment 2 submitted with MITCO's Direct Case contained inadvertent mathematical errors. The revised attachments correct those errors. Specifically, Attachment 7 corrects Attachment 1 and Attachment 8 corrects Attachment 2.

2. MITCO has served the revised attachments on the interested parties who obtained the confidential attachments pursuant to the Protective Order that was issued in this proceeding.

¹ 2001 Annual Access Tariff Filings, *Order Designating Issues for Investigation*, DA 01-2033, released Aug. 29, 2001.

MITCO requests confidential treatment of the revised attachments in the motion that accompanies this Supplement.

Respectfully Submitted,

MOULTRIE INDEPENDENT TELEPHONE COMPANY

A handwritten signature in black ink, appearing to read "Irwin Campbell & Tannenwald".

David A. Irwin

Loretta J. Garcia

Irwin Campbell & Tannenwald, P.C.

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Its Counsel

October 3, 2001

ATTACHMENT 7:

CORRECTED

Interstate Part 69 Access Charge Output,

Forecast 2001; "As Filed"

ATTACHMENT 8:

CORRECTED

Interstate Part 69 Access Charge Output,

Forecast 2001, "Revised for FCC"